

Legislative Fiscal Bureau

Fiscal Note

HF 2555 - Sentencing Options (LSB 6627 HV.1)

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Fiscal Note Version – As Passed by the House

Requested by Senator O. Gene Maddox

Description

House File 2555 as passed by the House makes changes to criminal definitions, enhancements, and penalties. Sections One, Two, and Three relate to the drug “ecstasy.” A person who conspires to manufacture for delivery, delivers or conspires to deliver, or possesses with intent to deliver ecstasy commits a Super Class B felony if the amount is greater than five kilograms. A person commits a Class B felony if the amount is more than ten grams but less than five kilograms. If the amount is ten grams or less, the person commits a Class C felony. Current law provides that a person commits a Class C felony regardless of the amount of the drug involved. Section Four provides that a person who possesses certain products with the intent to use that product to manufacture a controlled substance commits a Class D felony. Section Five provides an enhanced penalty (additional term of five years) for manufacturing a controlled substance near certain property. Section Six eliminates the ability of a defendant to receive a conditional discharge of a sentence for a first offense for either possession of a controlled substance or an accommodation offense. Sections 7, 8, 15, 26, 27, and 28 relate to deferred judgments for the offenses of Operating While Intoxicated (OWI) for a vehicle or boat, for the purposes of sentencing enhancements, granting deferred judgments where the defendant had previously been granted one for a felony in the last five years, and restricts a defendant to receiving one deferred judgment. Section Nine relates to judicial records from other states. Sections 10 and 11 of the Bill create a new criminal offense of Robbery in the third degree. Section 12 and 13 provide that a person who commits Burglary or Attempted Burglary in the third degree commits a Class D felony if the person has a previous Burglary conviction. Sections 14, 17, and 19 through 25 relate to changes in the sentence for Robbery in the second degree. The Bill creates a “70.0%” sentence where the inmate must serve 70.0% of the sentence in prison, and also must serve three years of parole or work release upon release from prison. Under current law, these inmates are required to serve 85.0% of their sentence in prison, and are not subject to mandatory supervision requirements when they are released. Section 16 removes the requirement that the court must find mitigating circumstances in determining whether a person should be sentenced to a determinate term for certain Class D and Class C felonies. Section 18 makes a technical change. Sections 29 and 30 relate to drug courts established in Community-Based Corrections District Departments, and it strikes language that requires drug courts only be offered to convicted offenders and to give priority to felons over misdemeanants. This provision takes effect upon enactment.

Assumptions

1. Charge, conviction, and sentencing patterns and trends will not change over the projection period.
2. Prisoner length of stay, revocation rates, and other corrections policies and practices will not change over the projection period.
3. The law will become effective July 1, 2002. A lag effect of six months is assumed, from the law’s effective date to the date of first entry of affected offenders into the correctional system.
4. The analysis is based on information obtained from the Justice Data Warehouse, which includes statewide court information. Data was also used from the Adult Corrections Information System, which is the adult prison system database.
5. Sections One through Three of the Bill will have no significant fiscal or correctional impact. According to samples of new prison admissions of drug offenders, there have been no cases involving ecstasy manufacture and/or distribution.

6. There is no readily available information with which to predict how many additional charges or convictions would occur under Section Four. To the extent that the language results in additional charges and convictions, there will be a fiscal and correctional impact on State prisons and Community-Based Corrections (CBC).
7. Section Five would result in more offenders receiving an additional five years in prison for certain offenses involving the manufacture with intent to distribute controlled substances. During FY 2001, four offenders were admitted to prison for convictions under this statute. It is assumed there will not be a significant fiscal or correctional impact for this provision.
8. There is no fiscal impact of Section Six of HF 2555 as passed by the House, assuming that Chapter 907, Code of Iowa, continues to apply to the majority of these cases. It is also assumed that the types of offenders who would be prohibited from receiving deferred judgments under the Bill would instead be granted deferred sentences and/or suspended sentences, and that their levels of supervision within the CBC system would not be impacted.
9. There will be fewer deferred judgments granted due to Sections 7, 8, 15, 26, 27, and 28. However, there is no readily available information with which to predict the number of deferred judgments that would not be granted due to these changes. There is no significant fiscal or correctional impact of these sections, assuming that the types of offenders who would be prohibited from receiving deferred judgments under the Bill would instead be granted deferred sentences and/or suspended sentences, and that their levels of supervision within the CBC system would not be impacted.
10. There is no fiscal impact associated with Section Nine.
11. There is no significant correctional or fiscal impact of Sections 10 and 11. Only one case per year would be eligible for Robbery in the third degree under the provisions of HF 2555 as passed by the House.
12. There is no significant correctional or fiscal impact for Sections 12 and 13. Few offenders have been sentenced since the law was changed last year.
13. There is no significant correctional or fiscal impact for the next five years for Sections 14, 17, and 19 through 25. These sections reduce the penalty for Robbery in the second degree from an 85.0% sentence to a 70.0% sentence, and impose mandatory supervision upon an inmate's release from prison. Offenders convicted of Robbery in the second degree after July 1, 2002, will expect to serve seven years instead of eight and one-half years on average, assuming accumulation of all earned time credits.
14. There is no readily available information with which to predict the correctional or fiscal impact of Section 16. There has been little use of the determinate sentencing option since it became available in July 2001. However, of the determinate terms that have been granted during the first six months of FY 2002, 60.0% of these offenders are projected to serve the same or less time in prison than they would have served under an indeterminate sentence. Approximately 40.0% will serve more time in prison than they would have served under an indeterminate sentence. Removing the requirement that a judge must find mitigating circumstances in order to impose a determinate term for certain Class C and Class D felonies, creates more potential for use of the statute to increase time served in prison. To the extent this occurs, there will be a correctional and fiscal impact. Additionally, during FY 2001, there were 429 Class C felony drug offenders admitted to prison. These convictions would be eligible for determinate sentencing under HF 2555 as passed by the House. Making these Class C offenses eligible for determinate sentencing without mitigating circumstances will likely result in quite a variation in sentencing. The range of possible terms for Class C determinate felonies is almost twice the range of possible terms for Class D determinate felonies. The wider variation in terms would increase the potential for Class C felons sentenced to a determinate term to serve a longer prison sentence than if they had received an indeterminate term. To the extent this occurs, there will be a correctional and fiscal impact.
15. There is no correctional or fiscal impact to the technical change made in Section 18.
16. There is no significant correctional or fiscal impact for Sections 29 and 30. There are a limited number of offenders served by drug courts. The change does permit offenders on pre-trial release status to be served by drug courts.

Correctional Impact

There is no significant correctional impact in the next five years. The changes made to Robbery in the second degree and Robbery in the third degree will have no impact in FY 2003, FY 2004, and FY 2005. The prison population is expected to decrease by four inmates in FY 2007.

Fiscal Impact

House File 2555 as passed by the House would not have a significant fiscal impact.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Office of the State Public Defender

/s/ Dennis C Prouty

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.
